REMARKS

Upon entry of this amendment claims 37-38 will be pending in this application. Claims 37-38 are currently amended. Claim 37 is amended to include the words "A compound which is". Claim 38 is amended by removing the word "physiologically" and adding the word "pharmaceutically". Support for this amendment can be found on page 34, lines 38-44 of the specification. Claim 38 is also amended as described below. No new matter is added.

Claims 39-40 are cancelled without prejudice. Applicants reserve the right to pursue cancelled subject matter in a continuing application.

Also submitted herewith is an amendment, petition and the appropriate fee to correct inventorship of the application under 37 CFR §1.48(b). Applicants submit that Daniele ANDREOTTI, Giovanni BERNASCONI, Emiliano CASTIGLIONI, Stefania CONTINI, Elettra FAZZOLARI, Aldo FERIANI, Gabriella GENTILE, Mario MATTIOLI, and Anna MINGARDI made no inventive contribution to the now elected subject matter of the instant application.

Applicants' response to the Examiner's objection and rejection is as follows.

Claim Rejections – 35 U.S.C. § 112, second paragraph

The Examiner has rejected claim 38 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Allegedly the claims are self-conflicting. The Examiner states that a pharmaceutical composition by definition must be effective yet non-toxic and that claim 38 is a pharmaceutical composition without dosage limitations, i.e., includes both ineffective and toxic amounts. It is recommended by the Examiner that "therapeutically effective amount" be incorporated into the claims.

Applicants have amended claim 38 as recommended by the Examiner. However, Applicants disagree with the Examiner's definition that pharmaceutical compositions must be effective yet non-toxic. Applicants submit that FDA evaluates drugs (i.e. pharmaceutical compositions) for safety and efficacy to determine if the drug's benefits outweigh any risks, including toxicological risks, the drug might pose. Thus a drug found to be safe and effective by FDA may still be toxic.

In light of the above amendments and remarks, Applicants respectfully request that the rejection of claim 38, under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

Claim Rejections – 35 U.S.C. § 112, second paragraph

The Examiner has rejected claims 39-40 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Allegedly, the claims contain subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants have cancelled claims 39-40, without prejudice, thus rendering the rejection moot. Applicants reserve the right to pursue the cancelled subject matter in a continuing application.

Claim Objections

The Examiner has objected to claims 38-40 as being dependent upon cancelled base claim 1. Applicants have corrected this typographical error by amending claim 38 to depend from claim 37.

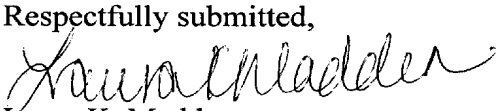
Allowable Subject Matter

Applicants gratefully acknowledge that the Examiner has found claim 37 patentable over Di Fabio et al., US 2004/0171607.

Conclusion

In view of the above remarks, reconsideration of this application is requested. Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned agent at the number below.

Respectfully submitted,



Laura K. Madden
Agent for Applicants
Registration No. 48,352

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-7339
Facsimile (610) 270-5090
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